UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Transmission Operations Reliability Standards and Interconnection Reliability Operations and Coordination Reliability Standards	Docket No. RM15-16-000

COMMENTS OF TRANSMISSION ACCESS POLICY STUDY GROUP

The Transmission Access Policy Study Group ("TAPS") respectfully submits these comments on the Commission's June 18, 2015 Notice of Proposed Rulemaking ("NOPR")[1] that proposes to approve revisions to the Transmission Operations and Coordination Reliability Standards[2] submitted by the North American Electric Reliability Corporation ("NERC").[3]

TAPS supports the Transmission Operations and Coordination Reliability Standards as proposed by NERC, and urges the Commission to approve the standards without directives. Specifically, TAPS responds to the Commission's request for comments on "monitoring of non-bulk electric system facilities" and "removal of the

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[1] *Transmission Operations Reliability Standards & Interconnection Reliability Operations & Coordination Reliability Standards*, 80 Fed. Reg. 36,280 (proposed June 24, 2015).

[2] TOP-001-3, TOP-002-4, TOP-003-3, IRO-001-4, IRO-002-4, IRO-008-2, IRO-010-2, IRO-014-3, and IRO-017-1, as well as revised definitions of "Operational Planning Analysis" and "Real-Time Assessment."

[3] Pet. of the N. Am. Elec. Reliability Corp. for Approval of Proposed Transmission Operations & Interconnection Reliability Operations & Coordination Reliability Standards, RM15-16, eLibrary No. 20150318-5202 ("NERC Petition"), supplemented by Supplemental Info. to Pet. of the N. Am. Elec. Reliability Corp. for Approval of Proposed Transmission Operations & Interconnection Reliability Operations & Coordination Reliability Standards, RM15-16, eLibrary No. 20150512-5056 ("Supplemental Petition").

load-serving entity as an applicable entity for proposed Reliability Standard TOP-001-3."[4]

I. INTERESTS OF TAPS

TAPS is an association of transmission-dependent utilities ("TDUs") in more than 35 states, promoting open and non-discriminatory transmission access.[5] As transmission-dependent utilities, TAPS members have long recognized the importance of grid reliability. As TDUs, TAPS members are users of the Bulk-Power System, highly reliant on the reliability of facilities owned and operated by others for the transmission service required to meet TAPS members' loads. In addition, many TAPS members participate in the development of and are subject to compliance with NERC Reliability Standards. Thus, TAPS is sensitive to both the need for standards to support grid reliability, as well as the need to make the standards clear and cost-effective.

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[4] NOPR P 3.

[5] Duncan Kincheloe, Missouri Public Utility Alliance, chairs the TAPS Board. Jane Cirrincione, Northern California Power Agency, is TAPS Vice Chair. John Twitty is TAPS Executive Director.

II. COMMENTS

A. Removal of the load-serving entity as an applicable entity for TOP-001-3 does not pose a reliability risk

Proposed TOP-001-3 applies to the Balancing Authority ("BA"), Distribution Provider ("DP"), Generator Operator ("GOP"), and Transmission Operator ("TOP"), but not Load-Serving Entity ("LSE"). The Commission proposes to approve TOP-001-3. NOPR, P 40. The Commission also, however, expresses concern about the standard's inapplicability to the LSE, "not[ing] that the issuance and compliance of operating instructions under proposed Reliability Standard TOP-001-3 is not limited to the real-time operations time horizon only," *id.*, P 64, and stating that "if a transmission operator or balancing authority would issue an operating instruction to a load-serving entity such as to carry out interruptible load curtailments, it is not clear what entity would respond to this operating instruction if the load-serving entity is removed from [TOP-001-3 applicability]," *id.*, P 65.

As NERC has demonstrated, it is appropriate to omit the LSE function from TOP-001-3 applicability. TOP-001-3 requires applicable entities (BA, DP, GOP, and TOP) to comply with BA and TOP "Operating Instructions." Although, as the Commission notes, compliance with Operating Instructions under TOP-001-3 is described in the standard as applying to the same-day time horizon, as well as real-time, LSEs (in their capacity as load-serving entities) lack the ability to comply with Operating Instructions in any time horizon. "Operating Instruction," as defined in the NERC Glossary, is an instruction to "change or preserve the state, status, output, or input of an Element of the Bulk Electric System or Facility of the Bulk Electric System." Because the LSE function does not own or operate equipment, the LSE function cannot curtail load or perform other corrective

actions subject to reliability standards; in other words, it cannot take action to change or preserve the state, status, output, or input of an Element or Facility of the BES. Nor is a directive to "[c]ommunicate[] *requests* for *voluntary* load curtailment to end-use customers," as described in the Functional Model and NERC's Supplemental Petition (at 8, 9-10 (emphasis added)), consistent with the definition of "Operating Instruction"; such a request does not directly change or preserve the state, status, output, or input of a BES Element or Facility. Because such a directive does not fall within the ambit of TOP-001-3, making the standard applicable to the LSE function would not affect LSEs' obligations to request that end-use customers voluntarily curtail their load.[6]

In addition, as NERC points out in its Supplemental Petition, the focus from a reliability perspective is properly on the TOP's and BA's ability to direct *non*-voluntary load curtailment.[7]

In short, because LSEs cannot take the corrective actions required by reliability standards, and because the ability to issue an Operating Instruction to an LSE would at best be redundant with the authority to issue an Operating Instruction to an entity with the ability to directly carry out the Operating Instruction, an LSE obligation to comply with Operating Instructions is not necessary for reliable BES operation, and there is no reliability risk involved in removing LSEs from TOP-001-3 applicability.

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[6] In any event, the DP, among others, is at least as well-placed as the LSE to issue requests for voluntary load curtailment.

[7] NERC Supplemental Petition at 9-10; *see also* NERC Compliance Filing, Docket No. RR15-4, at 12-13 (eLibrary No. 20150717-5232).

B. Non-BES facilities that are necessary for the reliable operation of the interconnected transmission system should be included in the BES through the exception process

The standard drafting team did not include non-BES elements among the TOP's monitoring responsibilities in TOP-001-3, Requirement R10. Instead, "the standard drafting team determined that any non-bulk electric system facility elements that are necessary for reliable operation of the bulk electric system would be included in the bulk electric system through the exception process provided in Appendix 5C to the NERC Rules of Procedure."[8]

However, the NOPR (P 58) states:

> Including such non-bulk electric system facilities in the definition of bulk electric system through the Rules of Procedure exception process could be an option to address any potential gaps for monitoring facilities. However, there may be potential efficiencies gained by using a more expedited method to include non-bulk electric system [equipment] that requires monitoring. Thus, the Commission seeks comments on whether the exception process should be used exclusively in all cases.

The Commission should allow NERC to use the Commission-approved BES Exception Process to address any non-BES elements that are necessary for the reliable operation of the interconnected transmission system. The BES Exception Process, Appendix 5C to the NERC Rules of Procedure, was developed by NERC based on significant work and consultation with stakeholders. As the Commission found in Order No. 773:[9]

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[8] NOPR, P 56.

[9] *Revisions to Elec. Reliability Org. Definition of Bulk Elec. Sys. & Rules of Procedure*, Order 773, 78 Fed. Reg. 804 (Jan. 4, 2013), 141 FERC ¶ 61,236, P 251 (2012), *clarified on reh'g*, Order No. 773-A, 78 Fed. Reg. 29,210 (May 17, 2013), 143 FERC ¶ 61,053 (2013), *compliance deadline extended*, 143 FERC ¶ 61,231 (2013), *clarified*, 144 FERC ¶ 61,174 (2013), *petition denied sub nom. People of N.Y. v. FERC*,

> The exception process balances the need for effective and efficient administration with due process and clarity of expectations and promotes consistency in determinations and eliminates regional discretion by having all decisions on exception requests made at NERC. The exception process also provides for involvement of persons with applicable technical expertise in making decisions on exception requests and allows for an entity to appeal a final NERC decision to the Commission.

While, as the NOPR notes (at 58), "potential efficiencies [might be] gained by using a more expedited method to include" non-BES elements, those efficiencies would be gained at the expense of the due process, clarity of expectations, consistency in determinations, and involvement of persons with applicable technical expertise described in Order No. 773. A good, workable process exists for making the determinations at issue; the Commission should allow NERC to use it.

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783 F.3d 946 (2nd Cir. 2015).

CONCLUSION

For the reasons set forth above, TAPS respectfully requests that the Commission approve, without modification, NERC's proposed Transmission Operations and Coordination Reliability Standards.

Respectfully submitted,

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